

This document contains the Connecticut regulations for Revocation and Reinstatement of Municipal Authority to Regulate Inland Wetlands. This document was prepared by the State of Connecticut Department of Environmental Protection and is provided for the convenience of the reader. This is not the official version of the regulations. The official regulations are published by the State of Connecticut, Judicial Branch, Commission on Official Legal Publications in the Connecticut Law Journal. In the event there is inconsistency between this document and the regulations published in the Connecticut Law Journal, the Connecticut Law Journal publication will serve as the official version.

## Inland Wetlands

### **Sec. 22a-42d-1. Revocation and reinstatement of municipal authority to regulate inland wetlands**

(a) In evaluating whether a municipal inland wetland agency is performing its duties pursuant to section 22a-42 of the General Statutes, as amended, the Commissioner shall consider the standards and criteria established in this section.

(b) If the Commissioner finds that two or more of the following conditions have occurred after the effective date of these regulations, or that any one of the following conditions has occurred more than once after that date, a municipal wetland agency shall be deemed to have consistently failed to perform its duties under section 22a-42 of the General Statutes, as amended, and the Commissioner may revoke the authority of the municipality to regulate inland wetlands under said section.

(1) Failure to meet or meet in a quorum at regularly scheduled meetings, as established in the municipal enabling ordinance, to consider pending permit applications, pending petitions for map or regulation changes or any other pending business pursuant to the responsibilities of the agency prescribed by sections 22a-36 through 22a-45 of the General Statutes, as amended.

(2) Failure to investigate and initiate enforcement proceedings on any violation of municipal wetland regulations adopted pursuant to section 22a-42a of the General Statutes, as amended, within forty-five (45) days of (A) discovery of such violation by a representative of the agency, or (B) receipt by the agency of written notice of the violation from a person who states the nature and location of the violation; or failure thereafter to pursue such enforcement action with due diligence.

(3) Failure to apply the decision making criteria and standards for regulating, licensing, and enforcing the provisions of sections 22a-36 through 22a-45 of the General Statutes, as amended, established in adopted municipal regulations or prescribed in section 22a-41 of the General Statutes, as amended.

(4) Failure to initiate the adoption of amendments to municipal inland wetland regulations within sixty-five (65) days of receipt by the agency of a notice of non-conformity issued by the Commissioner pursuant to section 22a-39 of the General Statutes, as amended, or failure thereafter to pursue adoption of those amendments with due diligence.

(5) Failure to file reports with the Commissioner as required by section 22a-39 of the General Statutes, as amended.

(6) Failure to have pending applications for permits and petitions for regulation changes, including map amendments, available for public inspection at reasonable times prior to the meeting during which action is to be taken on them by the wetland agency.

(7) Failure to maintain complete administrative records of municipal wetland agency actions on permit applications, complaints regarding violations, enforcement actions and petitions for changes in the municipal inland wetland regulations or maps.

(8) Failure of any commission member to disqualify himself or herself and to withdraw from any matter before the municipal wetland agency in which the commission member is directly or indirectly interested in a personal or financial sense, or failure to state that fact on the record pursuant to section 22a-42 (c) of the General Statutes.

(c) The Commissioner may issue an advisory letter to any inland wetland agency informing the agency of any complaint received by the Department of Environmental Protection, investigation made or planned by the Department, requesting information

about agency proceedings or actions, or outlining corrective actions to be considered or taken by the municipal wetland agency in order to avoid action under subsection (d) of this section. The purpose of this subsection is to foster expeditious correction of administrative or procedural problems and to avoid, where possible, the initiation of formal revocation proceedings. The advisory letter shall be sent certified mail, return receipt requested, to the wetland agency at its official mailing address. A copy of the advisory letter shall also be mailed to the chief executive officer of the municipality.

(d) The Commissioner shall revoke municipal jurisdiction in accordance with the following procedures:

(1) Prior to the public hearing on revocation, the Commissioner shall send a notice to the inland wetlands agency, by certified mail, return receipt requested, asking the wetland agency to show cause, within thirty (30) days, why its authority to regulate wetlands and watercourses under section 22a-42 of the General Statutes should not be revoked.

(2) The notice to show cause shall be effective upon its mailing by the Department to the wetland agency at its official mailing address. A copy of the show cause notice shall be mailed to the chief executive officer of the municipality.

(3) The show cause notice shall summarize the reasons for the proposed revocation and the circumstances under which regulatory authority may be reinstated, and may include the date, place and time for a public hearing to consider revocation of municipal jurisdiction, or that a determination to proceed to a public hearing has been deferred pending the Commissioner's review of the wetland agency's answer to the notice.

(4) If revocation of municipal authority is deemed necessary, a public hearing on proposed revocation of jurisdiction shall be held no sooner than 35 days from the date the show cause notice was mailed, or in the case where the hearing has been deferred pending the answer of the wetland agency, no sooner than 35 days from the date the notice of the hearing on proposed revocation was mailed.

(5) The public hearing on proposed revocation of municipal jurisdiction shall be conducted, and the decision to revoke or not revoke municipal jurisdiction shall be made, in accordance with section 22a-3a-1 (e) of the Regulations of Connecticut State Agencies.

(6) The Commissioner shall send the notice of revocation of inland wetland jurisdiction to the wetland agency, certified mail, return receipt requested. The notice shall state the reasons for the revocation and the circumstances under which regulatory authority may be reinstated. Notice that the jurisdiction of the wetland agency has been revoked and that the Commissioner has jurisdiction over the inland wetlands and watercourses in the municipality that authorized the agency, shall be published in a newspaper of general circulation in such municipality within thirty (30) days after mailing the notice of revocation to the agency.

(e) The circumstances under which municipal wetland agency jurisdiction may be reinstated which are set forth in the Commissioner's notice of revocation may include, but are not necessarily limited to:

(1) demonstration that the individual commission members are aware of the standards established in subsection (b) of this section and that measures will be implemented, including providing legal counsel, to ensure that the standards will not be violated;

(2) demonstration that the wetland agency members are receiving or will be receiving training on wetlands and watercourses regulation;

(3) demonstration that the agency has established a wetland agent or other person to manage wetland agency affairs; or

(4) demonstration that the potential for conflict of interest or decision making bias within the agency due to the personal or financial interests of individual commissioners is minimized by appointments of persons from different backgrounds or occupations;

(f) When the municipal jurisdiction to regulate wetlands is reinstated, the Commissioner shall cause notice of such reinstatement to be published in a newspaper of general circulation in the municipality within thirty (30) days of mailing the notice to the agency.

(Effective December 29, 1988)